IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 3026 of 2005

Between:

Sapavath Tarachand S/o. Kesu Naik
Dealer R/o. Marthidi Village, Bejjur Mandal, Adilabad District (A.P.)

..... PETITIONER

AND

1 The Assistant Collector Asifabad, Office at Asifabad, Asifabad Mandal, District Adilabad (A.P.)
2 The Mandal Revenue Officer Bejjur, Office at Bejjur Mandal, District Adilabad (A.P.)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, direction or order more appropriately a writ of Mandamus declaring the orders vide proceeding No. C/1511/04, dt. 10-11-2004, passed by the 1st Respondent as ultra vires illegal and void in the interest of justice and equity, or pass any other order or orders as this Honourable Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.A.M.QURESHI

Counsel for the Respondent No.: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

ORAL ORDER:

The proceedings of the first respondent in C/1511/04, dated 10-11-2004 are under challenge in this writ petition.

Undisputedly, the petitioner was a fair price shop dealer. The competent authority canceled his dealership. Before cancellation, a show cause notice dated 8-10-2004 had been given to the petitioner by the competent authority for which, it could be seen that the competent authority proposed to cancel the dealership for the alleged violations or contraventions of Clauses 3,4,5,16,20,21,22 and 23 of AP State Public Distribution System (Control) Order 2001 by the petitioner. It appears, the petitioner had also submitted an explanation stating that he fell ill and due to that fact, he could not open the shop. But, the appointing authority, not being satisfied with the explanation submitted by the petitioner, passed the impugned order holding that the shop was allowed to remain closed during the working hours causing much inconvenience to the needy public. It further observed that in case the petitioner really fell ill, an alternative arrangement could and should have been made. Consequently for the alleged violation of the above clauses, and in the public interest, the authorization of the petitioner was cancelled.

The learned counsel for the petitioner contends that no proper opportunity was accorded to the petitioner. In my opinion, these are all factual matters, which this Court cannot go into in a writ petition. Further, since the cancellation order had already been passed and since the same is in force, this Court cannot go into the merits of the case at this stage. Further more, under Clause 20, there is an effective alternative remedy provided under the Control Order 2001, by way of appeal to the Joint Collector and a further remedy is also available by way of revision to the District Collector.

In view of the above, without going into the merits of the case or the correctness or otherwise of the order passed by the first respondent, this writ

petition is dismissed with a liberty being given to the petitioner to prefer an appeal against the order impugned to the appellate authorities as proved under Clause 20 of the Control order 2001 and the appellate authority shall dispose of any such appeal, if any, being preferred by the petitioner as expeditiously as possible preferably within four weeks from the date of filing of such appeal. No costs. However, this order shall not be understood as if this Court has expressed its opinion on merits. The interim stay granted on 21-2-2005 is hereby vacated.

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kvsn 28-02-2005

To

1 The Assistant Collector Asifabad, Office at Asifabad, Asifabad Mandal, District Adilabad (A.P.)
2 The Mandal Revenue Officer Bejjur, Office at Bejjur Mandal, District Adilabad (A.P.)

3 Two copies to the GP for Civil Supplies, High Court buildings, Hyderabad.

4 Two CDs.